

The Honorable John C. Coughenour

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SCOTT AND KATHRYN KASEBURG, ET  
AL,

Plaintiffs,

vs.

PORT OF SEATTLE, a municipal corporation;  
PUGET SOUND ENERGY, INC., a  
Washington for profit corporation,  
KING COUNTY, a home rule charter county,  
and CENTRAL PUGET SOUND REGIONAL  
TRANSIT AUTHORITY, a municipal  
corporation,

Defendants.

**NO. 2:14-CV-000784-JCC**

**Plaintiffs' Motion for Extension of Time  
and Motion to file Over-Length Brief**

NOTE ON MOTION CALENDAR:  
September 25, 2014

Pursuant to Local Civil Rule 7(d)(2)(A) and 7(f), Plaintiffs move this Court for an extension of time to file Plaintiffs' Brief in Opposition to Defendant King County's Motion to Dismiss relieving the deadline from September 29, 2014 and allowing a one week extension to a deadline of October 6, 2014. Plaintiffs also move this Court for an Order granting approval for Plaintiffs to file an over-length Brief in Opposition allowing an additional 10 pages. In support of this Motion, Plaintiffs state the following:

1           1. This case involves a former railroad corridor which was acquired by the  
2 Defendants pursuant to the federal National Trail System Act, 16, U.S.C §1247(d) (“Trails Act”).

3           2. The United States government was held liable for a “taking” when a Notice of  
4 Interim Trail Use was issued by the Surface and Transportation Board and the railroad and the  
5 Defendants reached a trail use agreement. That taking is only relevant to this case in so far as  
6 “what” was taken from the Plaintiffs and what the Defendants actually acquired pursuant to the  
7 Trails Act.

8           3. Plaintiffs’ counsel is well-versed on the Trails Act and in the past has successfully  
9 litigated numerous Trails Act cases and is currently representing landowners in over 50 Trails  
10 Act cases pending before the United States Court of Federal Claims and the Federal Circuit.

11           4. In its Motion to Dismiss, Defendant has misstated the law, misquoted relevant  
12 law, quoted or cited cases out of context, misapplied applicable law, cited to case law that was  
13 specifically overturned by the Washington Supreme Court and Defendant failed to cite to  
14 binding Washington Supreme Court precedent.

15           5. In order to properly provide the inaccuracies in Defendant’s Motion to Dismiss,  
16 Plaintiffs need to accurately and thoroughly present the history of the Trails Act and cases in the  
17 proper context to explain to this Court what exactly the Defendants acquired under the Trails Act  
18 and what Plaintiffs still own subsequent to the Trails Act taking that occurred prior to this case.

19           6. Plaintiffs respectfully request a one week extension to file its Brief in Opposition  
20 and an additional 10 pages for their Brief in Opposition.

21           7. Plaintiffs conferred with Defendants on an extension of time and no opposition  
22 was expressed.  
23  
24  
25

1 Date: September 25, 2014.

BAKER STERCHI COWDEN & RICE, L.L.C.

2 By /s/ Elizabeth McCulley

3 Thomas S. Stewart

4 Elizabeth McCulley

5 Laura J. Bettenhausen

6 2400 Pershing Road, Suite 500

7 Kansas City, MO 64108

8 Telephone: (816) 471-2121

9 Facsimile: (816) 472-0288

10 [stewart@bscr-law.com](mailto:stewart@bscr-law.com)

11 [mcculley@bscr-law.com](mailto:mcculley@bscr-law.com)

12 [Bettenhausen@bscr-law.com](mailto:Bettenhausen@bscr-law.com)

13 AND

14 RODGERS DEUTSCH & TURNER, P.L.L.C.

15 Daryl A. Deutsch, WSBA No. 11003

16 Rodgers Deutsch & Turner, P.L.L.C.

17 3 Lake Bellevue Dr. Suite 100

18 Bellevue, WA 98005

19 Telephone (425) 455-1110

20 Facsimile (425) 455-1626

21 [daryl@rdtlaw.com](mailto:daryl@rdtlaw.com)

22 **ATTORNEYS FOR PLAINTIFFS**

23 **CERTIFICATE OF SERVICE**

24 I hereby certify that on the 25<sup>th</sup> day of September 2014, the foregoing was filed  
25 electronically with the Clerk of the Court to be served by the operation of the Court's electronic  
filing system upon all parties of record.

26 Timothy G. Leyh

27 Randall Thomsen

28 Kristin Ballinger

29 CALFO, HARRIGAN, LEYH & EAKES, LLP

30 999 Third Avenue, Ste. 4400

31 Seattle, WA 98104

32 [timl@calfoharrigan.com](mailto:timl@calfoharrigan.com)

33 [randallt@calfoharrigan.com](mailto:randallt@calfoharrigan.com)

34 [kristinb@calfoharrigan.com](mailto:kristinb@calfoharrigan.com)

35 *Attorneys for Defendant Port of Seattle*

1 Gavin W. Skok  
2 Bryan J. Case  
3 Courtney L. Seim  
4 James E. Breitenbucher  
5 RIDDELL WILLIAMS PS  
6 1001 – 4<sup>th</sup> Avenue, Ste. 4500  
7 Seattle, WA 98154-1065  
8 [gskok@riddellwilliams.com](mailto:gskok@riddellwilliams.com)  
9 [bcase@riddellwilliams.com](mailto:bcase@riddellwilliams.com)  
10 [cseim@riddellwilliams.com](mailto:cseim@riddellwilliams.com)  
11 [jbreitenbucher@riddellwilliams.com](mailto:jbreitenbucher@riddellwilliams.com)  
12 *Attorneys for Defendant Puget Sound Energy*

8 Andrew W Marcuse  
9 David J. Hackett  
10 King County Prosecuting Attorney, Civil Division  
11 500 4<sup>th</sup> Avenue, Suite 900  
12 Seattle, WA 98104-5039  
13 [andrew.marcuse@kingcounty.gov](mailto:andrew.marcuse@kingcounty.gov)  
14 [david.hackett@kingcounty.gov](mailto:david.hackett@kingcounty.gov)  
15 *Attorneys for Defendant King County*

14 /s/ Elizabeth McCulley